IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 390 of 2005
In
COMPANY PETITION No. 57 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HI TECH NDT SERVICES - Applicant(s)

Versus

GUJARAT CHEMICAL PORT TERMINALCO. LTD. - Respondent(s)

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Appearance :
MRS SWATI SOPARKAR for Applicant(s) : 1,
NANAVATI ASSOCIATES for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 13/12/2005

ORAL JUDGMENT

1.Rule. Mr. Nanavati learned counsel for the respondent waives notice of Rule and with the consent of the parties, the matter is heard finally.

2.The applicant has preferred the application for review and modification of the order dated 22.09.2005 passed by this Court in Company Petition No. 57 of 2005.

3. Upon hearing learned counsel appearing for the parties, it appears that the present application is moved by the applicant by clarifying the position that the applicant is ready to accept the amount as full and final settlement and the statement to that effect is made at para 6 in the affidavit in support of Judges Summons, which reads as under :

> "6. It is respectfully submitted that settlement has taken place between the present Applicant(original petitioner) and the Respondent Company (original Respondent), and the Applicant is now ready and willing to accept the said Rs. 2,50,000/- deposited into the Court Registry as "full and final settlement" towards its claims in the above mentioned winding up petition, that is Company Petition No. 57 of 2005"

4. Mr. Nanavati, learned counsel appearing for the opponent, confirms the said position of entering into settlement for acceptance of the amount of Rs. 2,50,000/- as full and final settlement. Even at the earlier point of time, when this Court passed the order on 22.09.2005, the willingness was shown on behalf of the opponent to tender the amount as full and final settlement. However, since the applicant, who was petitioner therein, was not ready to accept the amount as full and final settlement and wanted to pursue further remedy, this Court passed the order dated 22.09.2005, directing the amount to remain as deposit leaving the liberty to the petitioner to pursue the rights, as may be permissible in civil law with a further observation to transfer the amount as may be ordered in the appropriate civil proceedings.

5. It appears that now, as both the sides have agreed for full and final settlement of Rs. 2,50,000/-, if the earlier order dated 22.09.2005 is recalled, no prejudice will be caused to either side and on the contrary, it may put an end to the whole litigation and therefore, I find that if the parties are allowed to act as per the settlement of accepting the amount of Rs 2,50,000/-, the same would be rather in the interest of justice, since the same would also result into putting an end to the litigation for all times to come.

6. In view of the above, the earlier order dated 22.09.2005, passed in Company Petition No. 57 of 2005 is recalled and it is further directed in the main Company Petition No. 57 of 2005 that as the petitioner as well as the respondent agree to settle for Rs. 2,50,000/- as full and final settlement of the claim, for which the grievance is raised in the main Company Petition, and as the amount is already deposited by the respondent Company with this Court, both the parties are permitted to settle the dispute for Rs. 2,50,000/- and the petitioner shall be at the liberty to withdraw the amount of Rs. 2,50,000/-, which is deposited in the proceedings of Company Petition No. 57 of 2005 from the office of this Court.

7. In view of the aforesaid settlement, no cause for winding up of respondent Company would survive and the Company Petition No. 57 of 2005 shall stand disposed of accordingly.

(JAYANT PATEL, J.)

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